

_____:19-CV-____

Complaint Jury Trial Demanded

II. PARTIES

4. Plaintiff is a U.S. citizen and resident of Monroe, North Carolina.
5. Defendant is a business with an office located in Charlotte, North Carolina.
6. Defendant's primary office is located in Atlanta, GA but they have a significant operation within this jurisdiction and across the country.

III. FACTS

7. Patrick Amanuel (hereinafter "Plaintiff") was hired by Defendant on or about June 17, 2002.
8. Plaintiff was promoted to full-time Automotive Maintenance Supervisor on or about June 2017.
9. Plaintiff was new to his position (and had received little training) when he was suddenly informed that he could no longer use the manual while performing his job functions.
10. About July of 2017, Plaintiff informed Defendant that he was having difficulty memorizing the PMI (preventative maintenance inspection manual) and that he had been seeing a psychologist for memory issues amongst other things.
11. The Plaintiff was tested and treated for mild cognitive impairment (MCI) that impacts learning and memory. Plaintiff has suffered with memory issues for several years.
12. The manual contains approximately fifty (50) pages and over four hundred (400) bullet points to be used while conducting equipment maintenance. The manual is portable and Plaintiff would keep it in close proximity while performing his essential job functions.

13. Plaintiff was informed that he could no longer use the manual when doing his work because he was required to memorize all of the contents. This was a challenging request because of Plaintiff's health issues, which impacted his ability to memorize large amounts of information.
14. Despite his condition, Plaintiff had always performed his job at a high level using the manual as a guide until he was informed that this was against company policy.
15. As a reasonable accommodation request, Plaintiff requested to use the manual while working or more time to attend training. Plaintiff was informed that he must contact human resources (HR) to request an accommodation.
16. Plaintiff contacted HR; several weeks went by and Defendant refused to provide the reasonable accommodation.
17. Defendant was given the contact information to the person that diagnosed Plaintiff so that Defendant could verify the information.
18. Plaintiff also attempted to retrieve medical records to confirm his diagnosis but was unable to do so because the medical provider was terminally ill and ultimately died.
19. In August of 2017, Plaintiff was removed from his position as the full-time Automotive Supervisor due to his inability to memorize the manual and his request for a reasonable accommodation.
20. Plaintiff was offered a part time position with no benefits and making less than 1/2 of his previous salary.
21. In April 2018, Defendant informed Plaintiff that he had to accept the position or be terminated.

- 22. Although Plaintiff was informed that he was eligible for fulltime work elsewhere within the organization, he has never been given an opportunity to do so.
- 23. Upon information and belief Plaintiff was discriminated against based on his disability.

IV. CLAIMS FOR RELIEF

First Claim of Relief – Disability Discrimination

- 24. Plaintiff realleges and incorporates all the proceeding paragraphs by reference.
- 25. Defendant discriminated against Plaintiff by treating him disparately due to a disability.
- 26. Plaintiff's inability to memorize certain documents was a factor in the decision to demote Plaintiff.
- 27. Defendant's actions complained of herein subject the Plaintiff to discrimination on the basis of his disability, in violation of the ADA.
- 28. As a direct result of Defendant's actions, Plaintiff has suffered damages, including economic damages and emotional distress, in an amount in excess of \$75,000.00.

Second Claim of Relief – RETALIATION

- 29. Plaintiff realleges and incorporates by reference all preceding paragraphs above.
- 30. Defendant retaliated against Plaintiff by refusing to allow him to return to another full-time position because he requested an accommodation and filed grievances against Defendant.
- 31. Plaintiff was removed from his fulltime position after requesting a reasonable accommodation.

32. After Plaintiff filed an internal complaint with Defendant and a subsequent complaint with the EEOC, Plaintiff applied to over twelve (12) full-time jobs with Defendant but was never provided an opportunity to interview.
33. Plaintiff was also bypassed for at least six (6) other full-time positions that were internally filed without being considered as a candidate.
34. Plaintiff also requested to be assigned to the Monroe UPS facility, which is less than ten minutes from Plaintiff's home rather than driving to Charlotte, which is forty-five minutes. The request was denied but other supervisors were granted a similar transfer due a center being nearer to their home.
35. As a result Plaintiff missed out on a promotional opportunity and increased pay.
36. Defendant's actions complained of herein subjected Plaintiff to discrimination based on a disability, in violation of the ADA.
37. As a direct result of Defendant's actions, Plaintiff has suffered damages, including economic damages and emotional distress, in an amount in excess of \$75,000.00.

V. DAMAGES

38. As a result of the discrimination complained of herein, Plaintiff has been deprived of his rights protected by the ADA.
39. By reason of Defendant's conduct and as a proximate result thereof, Plaintiff has suffered the loss of a career and has suffered emotional distress.
40. As a direct result of Defendant's actions, Plaintiff has suffered economic damages and emotional distress, in an amount in excess of \$75,000.00.

41. The damages are not limited to but include loss of pension credits, loss of stocks pursuant to the Management Incentive Program, and other opportunities.

VI. EXHAUSTION OF ADMINISTRATIVE REMEDIES

42. Plaintiff filed a timely charge of discrimination with the Equal Employment Opportunity Commission, Charge No. 430-2018-01118. The EEOC issued a Notice of Right-To-Sue on April 18, 2019. Plaintiff is filing this action within ninety (90) days of receiving the Notice of Right-To-Sue. He has complied with all jurisdictional requirements and has exhausted administrative pre-requisites before initiating this action.

VII. JURY TRIAL DEMANDED

43. Plaintiff hereby demands a trial by jury.

VIII. PRAYER FOR RELIEF

44. Wherefore, Plaintiff prays that the discrimination alleged herein be remedied in full and that the Court, after a jury trial:
- 1) Declare the actions complained of herein to be illegal;
 - 2) Issue an injunction enjoining Defendant, its agents, its employees, successors, attorneys and those acting in concert or participation with Defendant and at its direction, from engaging in the unlawful practices set forth herein and any other employment practice to be shown in violation of Title VII of the Civil Rights Action of 1964 and;
 - 3) Award Plaintiff compensatory damages, including damages for mental anguish and stress, and harm to Plaintiff's career opportunities;

- 4) Award Plaintiff back pay, front pay, and all other economic damages to provide make whole relief;
- 5) Award Plaintiff his costs and expenses in this action, including reasonable attorney's fees, costs and other litigation expenses;
- 6) Grant such other and further relief as may be just and necessary to afford complete relief to Plaintiff.

This 18th day of July 2019.

s/Walter L. Bowers Jr.
Wooden Bowers PLLC
301 McCullough Drive Suite 400
Charlotte, North Carolina 28262
Telephone: 704-919-3421
Facsimile: 704-973-9380
Email: walter.bowers@wobolaw.com
Attorney for the Plaintiff

CERTIFICATE OF SERVICE

This certifies that the foregoing complaint was served via CM/ECF Filing and pursuant to the FRCP to the following:

Marvel Fluker
Sr. Legal Admin Assistant
United Postal Service
55 Glenlake Parkway NE
Atlanta, GA 30328

s/Walter L. Bowers Jr.
Wooden Bowers PLLC
301 McCullough Dr
Charlotte, North Carolina 28262
Telephone: 704-919-3421
Facsimile: 704-973-9380
Email: walter.bowers@wobolaw.com
Attorney for the Plaintiff

I. (a) PLAINTIFFS

Patrick J. Amanuel Sr.

(b) County of Residence of First Listed Plaintiff UNION
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)
WOODEN BOWERS PLLC
WALTER L. BOWERS JR
301 MCCULLOUGH DR CHARLOTTE, NC 28262 704-919-3421

DEFENDANTS

UNITED PARCEL SERVICES

County of Residence of First Listed Defendant
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

MARVELLE FLUKER SR. LEGAL ADMIN ASSISTANT
UNITED PARCEL SERVICE
55 GLENLAKE PARKWAY NE ATLANTA, GA 30328

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
☒ 3 Federal Question (U.S. Government Not a Party)
☐ 2 U.S. Government Defendant
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input checked="" type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
☐ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from Another District (specify)
☐ 6 Multidistrict Litigation - Transfer
☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
AMERICANS WITH DISABILITIES ACT OF 1990

Brief description of cause:
DISABILITY DISCRIMINATION

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$
100,00

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING FEE JUDGE MAG JUDGE